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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

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Situation of human rights in Myanmar

The General Assembly,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,[1] and recalling the International Covenants on Human Rights[2] and other relevant human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in this field,

Reaffirming also its previous resolutions on the situation of human rights in Myanmar, the most recent of which is resolution 65/241 of 24 December 2010, those of the Commission on Human Rights, and those of the Human Rights Council, the most recent of which are resolutions 13/25 of 26 March 2010[3] and 16/24 of 25 March 2011,[4]

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 53* and corrigendum (A/65/53 and Corr.1), chap. I, sect. A.
[4] See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 53* (A/66/53), chap. II, sect. A.

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Welcoming the statements made by the President of the Security Council on 11 October 2007 and 2 May 2008,[5] and the Security Council statements to the press of 22 May and 13 August 2009,[6]

Welcoming also the report of the Secretary-General on the situation of human rights in Myanmar[7] and the observations contained therein, and recalling his visit to the country on 3 and 4 July 2009 and the visits of his Special Adviser on Myanmar from 31 January to 3 February and on 26 and 27 June 2009, from 26 to 28 November 2010 and from 11 to 13 May and from 31 October to 4 November 2011, while urging the Government of Myanmar to continue to make progress in its cooperation with the good offices mission, including by facilitating further visits,

Welcoming further the visit of the Special Rapporteur to Myanmar from 21 to 25 August 2011 and the access granted to political and other actors, including prisoners, and welcoming the reports of the Special Rapporteur on the situation of human rights in Myanmar,[8] and urging the implementation of the recommendations contained therein and in previous reports,

Deeply concerned that many of the urgent calls contained in the above-mentioned resolutions, as well as the statements of other United Nations bodies concerning the situation of human rights in Myanmar, have not yet been acted upon,

Reaffirming the essential importance of a genuine process of dialogue and national reconciliation for a transition to democracy,

Acknowledging the publicly stated commitment of the President of Myanmar to implement reform, promote national reconciliation, safeguard human rights and fundamental freedoms and promote good governance, democracy and the rule of law, and acknowledging also the President's stated commitment to addressing social, economic and environmental issues,

Welcoming the recent talks between the Government of Myanmar and Daw Aung San Suu Kyi, while urging the Government to take further steps to advance an effective and genuine dialogue with the broad spectrum of political parties, including the National League for Democracy, pro-democracy actors, ethnic minorities and other relevant stakeholders in a genuine process of dialogue, national reconciliation and transition to democracy,

Considering that democratic, transparent and inclusive elections must be the cornerstone of any democratic reform process, and deeply regretting that the 2010 general elections represent a missed opportunity in that regard, noting in particular the restrictions imposed by the electoral laws, limited access to the media, reported incidents of official intimidation, the cancellation of elections in certain ethnic areas and the lack of independence of the electoral commission, and expressing concern at the failure of the electoral commission to follow up on complaints about the electoral process, including about voting procedures,

Encouraging the continued cooperation of the Government of Myanmar with the international community in order to achieve concrete progress with regard to

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[5] S/PRST/2007/37 and S/PRST/2008/13; see *Resolutions and Decisions of the Security Council, 1 August 2007-31 July 2008*.

[6] SC/9662 and SC/9731.

[7] A/66/267.

[8] See A/66/365 and A/HRC/16/59.

human rights and fundamental freedoms, and political processes, noting the Government's stated intention to do so,

1. *Expresses grave concern* about the ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar, while recognizing the commitment made by the Government of Myanmar to implement reforms to address those violations;

2. *Welcomes* the recent talks between the Government of Myanmar and Daw Aung San Suu Kyi and opposition parties, and encourages the Government to develop the current talks into a substantive and regular dialogue while comprehensively engaging with the democratic opposition, including the National League for Democracy, and political, ethnic and civil society groups and actors in order to begin an all-inclusive and democratic reform process leading to national reconciliation and lasting peace in Myanmar;

3. *Calls upon* the Government of Myanmar to continue to ensure that no restrictions are placed on the exercise by Daw Aung San Suu Kyi of all her human rights and fundamental freedoms, in particular with regard to the freedom of movement and the right to participate fully in the political process, including through engagement with relevant stakeholders, and to take adequate measures to protect her physical safety;

4. *Welcomes* the release on 12 October 2011 of more than 200 prisoners of conscience, and strongly urges the Government of Myanmar to release without further delay and without conditions all prisoners of conscience, including the Chairman of the Shan Nationalities League for Democracy, U Hkun Htun Oo, the leader of the 88 Generation Students Group, U Min Ko Naing, one of the founders of the 88 Generation Students Group, Ko Ko Gyi, human rights defender U Myint Aye, and the leader of the All Burma Monks' Alliance, U Gambira, and to allow their full participation in the political process, emphasizing that their unrestricted release is fundamental to national reconciliation, and strongly calls upon the Government to reveal the whereabouts of persons who are detained or have been subjected to enforced disappearance and to desist from further politically motivated arrests;

5. *Notes* the establishment of new national, regional and state legislatures in Myanmar and some steps taken to engage legislatures on issues relevant to the promotion and protection of human rights, and encourages further efforts in that regard;

6. *Calls upon* the Government of Myanmar to lift all restrictions imposed on the representatives of political parties as well as on other political and civil society actors in the country, including by amending the relevant laws, and to ensure that the upcoming by-elections are held in a participatory, inclusive and transparent manner, while recognizing the announcement of changes in the electoral law that would allow for wider participation, and urging that they be put into effect;

7. *Notes* the stated intention and first initiatives of the Government of Myanmar to carry out media reform and open up space for the press, and strongly calls upon the Government of Myanmar to lift restrictions on the freedom of assembly, association and movement and the freedom of expression, including for free and independent media, to improve the availability and accessibility of Internet and mobile telephone services, and to end the use of censorship, including the use of

the Electronic Transactions Law to prevent the reporting of views critical of the Government;

8. *Acknowledges with appreciation* the formation of the Myanmar National Human Rights Commission and encourages the Government of Myanmar to ensure that it is established and mandated in such a way as to be an independent, credible and effective institution, in accordance with the Paris Principles relating to the Status of National Institutions,[9] and, further, encourages the Commission to receive complaints and to investigate violations, and recommends that the Government seek technical assistance from the Office of the United Nations High Commissioner for Human Rights in the development of that new institution, noting some initial contacts in this regard;

9. *Expresses grave concern* at the continuing practice of arbitrary detention, enforced disappearance, rape and other forms of sexual violence, torture and cruel, inhuman or degrading treatment or punishment, and urges the Government of Myanmar to undertake without further delay a full, transparent, effective, impartial and independent investigation into all reports of human rights violations and to bring to justice those responsible in order to end impunity for violations of human rights, and, regretting that previous calls to that effect have not been heeded, calls upon the Government to do so as a matter of priority and, if necessary, drawing on the assistance of the United Nations;

10. *Takes note* of the recent steps taken by the Government of Myanmar to review some national legislation, and calls upon the Government to undertake a transparent, inclusive and comprehensive review of compliance of the Constitution and all national legislation with international human rights law, fully engaging with democratic opposition, civil society groups, ethnic groups and other stakeholders, while recalling once more that the procedures established for the drafting of the Constitution resulted in a de facto exclusion of opposition groups from the process;

11. *Urges* the Government of Myanmar to ensure the independence and impartiality of the judiciary and the independence of lawyers, to guarantee due process of law, and to fulfil earlier assurances made to the Special Rapporteur on the situation of human rights in Myanmar to begin a dialogue on judicial reform;

12. *Expresses concern* about the conditions in prisons and other detention facilities and consistent reports of ill-treatment of prisoners of conscience, including torture, and about the moving of prisoners of conscience to isolated prisons far from their families where they cannot receive regular visits, or food and medicine, and calls upon the Government of Myanmar to ensure that proper investigations are conducted of all deaths in prison;

13. *Expresses deep concern* about the resumption of armed conflict and the breakdown of long-standing ceasefires in areas including Kachin and Shan States, as a result of continued pressures imposed by the national authorities on certain ethnic groups and the exclusion of some key ethnic political parties from the political process and from decisions affecting their lives, while noting some steps taken to establish ceasefires in other areas, and calls upon the Government of Myanmar to protect the civilian population in all parts of the country and for all concerned to use political means to re-establish ceasefire agreements, and also calls upon the

[9] Resolution 48/134, annex.

Government to expand the offer of peace talks with armed groups on a nationwide basis;

14. *Strongly calls upon* the Government of Myanmar to take urgent measures to put an end to continuing grave violations of international human rights and humanitarian law, including the targeting of persons based on their belonging to particular ethnic groups, the targeting of civilians as such in military operations, and rape and other forms of sexual violence, and to end impunity for such acts;

15. *Also strongly calls upon* the Government of Myanmar to end the practice of systematic forced displacement of large numbers of persons within their country and other causes of refugee flows into neighbouring countries;

16. *Expresses its concern* about the continuing discrimination, human rights violations, violence, displacement and economic deprivation affecting numerous ethnic minorities, including, but not limited to, the Rohingya ethnic minority in Northern Rakhine State, and calls upon the Government of Myanmar to take immediate action to bring about an improvement in their respective situations, and to grant citizenship to the Rohingya ethnic minority;

17. *Urges* the Government of Myanmar to intensify its cooperation with the Office of the United Nations High Commissioner for Human Rights and other partners to conduct adequate human rights and international humanitarian law training for its armed forces, police and prison personnel, to ensure their strict compliance with international human rights law and international humanitarian law and to hold them accountable for any violations thereof;

18. *Calls upon* the Government of Myanmar to consider ratifying and acceding to remaining international human rights treaties, which would enable a dialogue with the other human rights treaty bodies, while noting some initial steps taken by the Government in this regard;

19. *Also calls upon* the Government of Myanmar to allow human rights defenders to pursue their activities unhindered and to ensure their safety, security and freedom of movement in that pursuit;

20. *Strongly calls upon* the Government of Myanmar to put an immediate end to the continuing recruitment and use of child soldiers by the armed forces and other armed groups, in violation of international law by all parties, to intensify measures to ensure the protection of children from armed conflict, to pursue its collaboration with the Special Representative of the Secretary-General for Children and Armed Conflict, to swiftly conclude and implement an effective joint action plan for the national armed forces, to facilitate access for dialogue on action plans with other parties listed in the annual report of the Secretary-General on children and armed conflict, and to allow unrestricted access to all areas where children are recruited for those purposes;

21. *Notes with appreciation* the prolongation of the supplementary understanding between the International Labour Organization and the Government of Myanmar on forced labour, and the reported progress on changes in law and practice to eliminate the use of forced labour, particularly in relation to awareness-raising, but expresses grave concern at the continuing practice of forced labour, including the reported use of civilian porters, including convict porters, and calls upon the Government to intensify its cooperation with the International Labour

Organization on the basis of the understanding, with a view to extending action against forced labour as widely as possible throughout the country and to fully implementing with urgency the recommendations of the Commission of Inquiry of the International Labour Organization;

22. *Welcomes* the approval of the Labour Organizations Bill, and the prior constructive consultation on it with the International Labour Organization, and encourages its full implementation;

23. *Also welcomes* the positive steps taken by the Government of Myanmar to facilitate and improve humanitarian response and calls upon the Government of Myanmar to take further measures to allow humanitarian assistance to reach all persons in need throughout the country by ensuring timely, safe, full and unhindered access to all parts of Myanmar, including conflict and border areas, for the United Nations, international humanitarian organizations and their partners, taking into account the need to process swiftly requests for visa and in-country travel permission;

24. *Further welcomes* the invitation extended to the International Committee of the Red Cross to provide some technical assistance in prisons, and encourages the Government of Myanmar to allow it to carry out other activities in accordance with its mandate, in particular by granting access to persons detained and to areas of internal armed conflict;

25. *Encourages* the Government of Myanmar to continue to cooperate with international health entities on HIV/AIDS, malaria and tuberculosis;

26. *Reaffirms its full support* for the good offices of the Secretary-General pursued through his Special Adviser on Myanmar, consistent with the report of the Secretary-General on the situation of human rights in Myanmar,[7] and urges the Government of Myanmar to cooperate fully with the good offices mission, including by facilitating the visits of the Special Adviser to the country and granting him unrestricted access to all relevant stakeholders, including the highest level of leadership, political parties, human rights defenders, representatives of ethnic groups, student leaders and other opposition groups, and to respond substantively and without delay to the proposals of the Secretary-General, including the establishment of a United Nations office in support of the mandate of the good offices;

27. *Welcomes* the role played by countries neighbouring Myanmar and members of the Association of Southeast Asian Nations in support of the good offices mission of the Secretary-General;

28. *Also welcomes* the continued contribution of the Group of Friends of the Secretary-General on Myanmar in support of the work of the good offices mission;

29. *Further welcomes* the visit of the Special Rapporteur to Myanmar from 21 to 25 August and the access granted to him, and urges the Government of Myanmar to implement the recommendations addressed to the Government in his report[10] and to cooperate fully with the Special Rapporteur in the exercise of his mandate, including by facilitating further visits;

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[10] A/66/365.

30. *Calls upon* the Government of Myanmar to engage in a dialogue with the Office of the High Commissioner with a view to ensuring full respect for all human rights and fundamental freedoms;

31. *Acknowledges* the participation by the Government of Myanmar in the universal periodic review in January 2011 as the State under review, and strongly encourages the Government to implement the recommendations accepted, including the recommendations to consider acceding to the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights[2] and other core human rights treaties, while also urging the Government to reconsider the many important recommendations which were rejected and to seek technical cooperation from the Office of the High Commissioner in this regard;

32. *Requests* the Secretary-General:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights, the transition to democracy and the national reconciliation process with the Government and the people of Myanmar, involving all relevant stakeholders, including democracy and human rights groups, and to offer technical assistance to the Government in this regard;

(b) To give all necessary assistance to enable the Special Adviser and the Special Rapporteur to discharge their mandates fully, effectively and in a coordinated manner;

(c) To report to the General Assembly at its sixty-seventh session, as well as to the Human Rights Council, on the progress made in the implementation of the present resolution;

33. *Decides* to continue the consideration of the question at its sixty-seventh session, on the basis of the reports of the Secretary-General and the Special Rapporteur.